Mr. President:

The debate so far on the nomination of Mr. Strauss to be Secretary of Commerce leads me to believe that many have been so obsessed with the details of the voluminous record of hearings before the Commerce Committee that they have failed to put the issue in proper perspective. It is a matter of not being able to see the forest for the trees. For this reason, I would like to point out the relation of certain specific items of testimony and facts to the overall question.

A great deal of concern has been evidenced in connection with this nomination over the nominee’s purported claim of executive privilege when being queried by congressional committees on his actions in the executive branch. I might say at this point that I do not believe that anyone is more concerned than I over the continual usurpation by one branch of the Government of the powers of the other, and this includes the encroachment of the executive branch on the constitutional powers of the Congress. This concern, however, should not blind us to the facts of the case at hand.

What are the facts? Let us look at the record. When the nominee was testifying before the Subcommittee on Anti-trust and Monopoly, on the Dixon-Yates matter, he was asked several questions with reference to conversations which the nominee, as Chairman of the AEC, had with the President and members of his staff. The nominee claimed executive privilege and declined to testify with regard to any such conversations. He did not decline to disclose any official actions with respect to the transaction under investigation, nor did he decline to give full information on the transaction itself. There is a tremendous difference. Much has been made of the President’s statement at a press conference by which he is alleged to have waived any objection to a full revelation of any conversations he may have had with his subordinates. The text of the President’s statement is as follows:
"Anyone of you here present might singly or in an investigation group, go to the Bureau of the Budget, to the Chief of the Atomic Energy Commission, and get the complete record from the inception of the idea to this very minute, and it was all yours. Now, that was all he had to say about it."

Mr. Strauss' opponents allege that this statement gave the President's permission for Mr. Strauss to testify as to his conversations with the President and his staff. The quote was from a press conference on August 18, 1954, and appears reprinted on page 346 of the hearings on this nomination. If there is really any doubt as to whether the President intended to include the conversations in question in the phrase "complete record", one needs but to refer to the President's press conference of July 7 when the same subject was discussed. This press conference is quoted directly and is printed on pages 347 and 348 of the hearings before the Commerce Committee. I quote, beginning with the last paragraph on page 347; and these are the President's words:

"If anybody in an official position of this Government does anything which is an official act, and submits it either in the form of recommendation or anything else, that is properly a matter for investigation if Congress so chooses, provided the national security is not involved.

"But when it comes to the conversations that take place between any responsible official and his advisors or exchange of little, mere little slips, of this or that, expressing personal opinions on the most confidential basis, those are not subject to investigation by anybody, and if they are, will wreck the Government.

"There is no business that could be run if it—if there would be exposed every single thought that an adviser might have, because in the process of reaching an agreed position there are many, many conflicting opinions to be brought together. And if any commander is going to get the free, unprejudiced opinions of his subordinates he had better protect what they have to say to him on a confidential basis.

"It is exactly, as I see it, like a lawyer and his client or any other confidential thing of that character."

Can we honestly read these words and conclude that Mr. Strauss was directed by the President in his previous press conference to testify as to conversations with the President and his advisors? Was the nominee just being arbitrary, or was he reacting as any other reasonable man in the same circumstances would act? I wonder how many Senators would consider such action arbitrary if it were their staff member who took such a position. There is no precedent for revealing such conversations, and I doubt seriously that there
ever will be. Mr. Strauss claimed no executive privilege/beyond that which has repeatedly and consistently/claimed in the past, and that which will undoubtedly be claimed again in the future, possibly by members of this body.

Another matter which seems to have gotten completely out of perspective is the often-referred-to letter of the Attorney General/ concerning the transfer of information on the Nautilus to England. Much has been made of the fact/that the letter was not revealed by the nominee to the Joint Committee on Atomic Energy. The pertinent part of the letter reads as follows:

"In view of the sensitive subject matter here involved and its apparent importance, I believe that, in this instance, the matter should be discussed with the Joint Committee before the agreements are entered into. This, presumably, would be undertaken in an informal basis in the interest of ascertaining preliminarily the views of the committee and, at the same time, permitting the committee to become aware of proposed developments in the field of international cooperation which might have significant effects upon the atomic energy program."

Now let us look at this matter objectively. In the first place, the letter was addressed to the Defense Department, and a copy was sent to the Atomic Energy Commission. There is considerable doubt as to when the actual letter actually came to the nominee's attention. In any event, the primary burden to comply with the Attorney General's suggestion was on the Department of Defense, and even a larger burden was on the State Department, which handled the matter, than was on the AEC. These matters, however, are largely beside the point. The Attorney General advised that the proposed transfer of information be discussed with the Joint Committee. This was done prior to the agreement being consummated. Of what possible relevance is it that the letter of the Attorney General, itself, was not transmitted to the Joint Committee: The sinister conclusions stemming from the fact that the Joint Committee did not receive the letter itself escapes me. The prominence which the subject has occupied in this debate is just another indication that the matter has not been considered in its proper perspective, and that is probably a considerable understatement.

There is another factor about the testimony which evidently has not been comprehended. Mr. Strauss was called on to testify in the most minute detail concerning matters in the technical
field of Atomic Energy/which occurred over a period of some ten years. He had at his disposal only his personal papers, as was obvious to anyone who watched the hearings. He did not have for reference the file of the AEC/about which agency's actions he was testifying nor did he have access to the files of the Joint Committee. Obviously, these assistants who worked with him were energetic and conscientious. It was equally obvious that they were totally unfamiliar with the field of atomic energy and the persons who are knowledgeable in that field. As a result, the nominee had trouble with details and chronology of events. His testimony indicated that he was making an extreme effort/to recall the details of past years and be responsive to the questions asked and the issues raised. Under the circumstances, he did an excellent job.

There seems also to be an impression/that the nominee was reluctant to admit his shortcomings. Unquestionably, Mr. Strauss is a proud man, and I would be the last to say that he has no reason to be so. He did not hesitate, however, on a number of occasions/to voluntarily correct his own testimony, and admit he was in error. On the question of keeping the Joint Committee informed, he admitted that he had made mistakes and had not always complied, and these are his own words from the testimony:

"In other words, the inference there is that I am withholding information from the Joint Committee up to the time of my demise. If human error, to which I have confessed that I am as liable as the next man, or more so, is a dereliction of duty, then that is a construction which you will have to place on those occasions--and I say that there were such--when the Joint Committee may not have been informed as fully or as promptly as, under ideal circumstances, it should be. But in the great majority of cases, in the preponderant majority of cases, the Joint Committee was kept fully and currently informed; and what is more important, that was the motivation of the Chairman and members of the Commission during my term of office."

Mr. Strauss admitted, but did not apologize for his own errors. That is the sum and substance of it.

Time lapse and unavailability of files/were not the only handicaps under which the nominee testified. There is also a matter of security classifications, and I will cite the outstanding example of how this handicap operated.

The witnesses who opposed the nominee's confirmation accused Mr. Strauss of telling falsehoods with respect to the reasons
for his opposition to the shipment of isotopes to Norway in 1949. Mr. Strauss had testified previously that he opposed the shipment because they were "to be used for research in the development of more heat-resistant alloys for jet engines." This the witness characterized as an unqualified falsehood, and from the testimony it appears that at the time of the witness' appearance before our committee, there was no record available to substantiate the nominee's assertion. However, at a time when the hearings were nearing conclusion, the nominee succeeded in obtaining from the Department of State a paraphrase of the cablegrams between the State Department and the American Embassy in Oslo, Norway, concerning the request by Norway for the isotopes. These cablegrams had until that time been classified and held in the State Department files. Until that point, the nominee had had to rely solely on his memory. This is the pertinent part of the cablegrams, and I quote:

"We have contacted the director of the project referred to in your cable (giving reference number of cable paraphrased immediately above). Mr. 'A' is an able young physical chemist heading a group of about nine employees in developing high temperature alloys at a theoretical level and which has as yet no practical use. The country's resources of cobalt, columbium and other metals lead the enterprise to believe that alloy development research is desirable. Iron used for diffusion experiments as a function of time and temperature in low-iron containing alloys in order to check up possible lattice or other changes.

"It is desired to develop alloy for jet or gas turbine use at a temperature as high as possible, i.e., particularly above 700 degrees centigrade, if possible. Work already started and looks promising. It is expected eventually that there will be publication. Two patent applications have already been filed on this work. Mr. 'A' is not presently available for personal interview. Will try to get further details later in week when Mr. 'B' returns."

Subsequent cables revealed in essence that there were no grounds to assume that the research would be successful or could be applied to rockets or other military weapons if it were successful.

The point that is clear is that the nominee stood on what appeared to be a fabrication of his own imagination for the simple reason that the classification of the records on which he based his statement prevented substantiation of his statement. The handicap is obvious. How many other instances of this nature are in the record for which the corroborating records are still unknown to us and unavailable because of security classification? I can see possibilities of this sort in several other instances.
These are but examples of the many details of this voluminous hearings/which have appeared to be out of focus at times/during this debate. I sincerely hope that they will impress on each Senator/that it is essential to put the miscellaneous excerpts of the record/in the proper perspective/before judgment is passed.

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